



STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notice of Intent to Adopt Regulations and Notice of Public Hearing

The Commissioner of Environmental Protection ("the Commissioner") pursuant to sections 4-168 and 22a-6 of the Connecticut General Statutes, hereby gives notice of his intention to adopt sections 22a-450-1 through 7 of the Regulations of Connecticut State Agencies.

Adoption of sections 22a-450-1 through 7 is proposed under the authority of section 22a-450 of the Connecticut General Statutes which authorizes the Commissioner by regulation to require the reporting of facts concerning the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products, or hazardous wastes.

The purpose of the proposed regulation is to define the types of releases to be reported and the manner in which such releases must be reported to the Department of Environmental Protection under section 22a-450 of the Connecticut General Statutes. The proposed regulation will establish procedures and requirements for notifying the Department of important information concerning a release, including but not limited to: the nature and location of the release; the cause of the release; the proximity of the release to population centers and sensitive environmental areas; and actions taken to mitigate the release. The proposed regulations seek to improve the quality of information reported to the Department, and to promote more timely intervention and clean-up of releases with the overall goal of reducing the impact of the release on the environment and public health.

All interested parties are invited to express their views on the proposed regulation. Written comments on the proposed regulation must be submitted to the Department no later than November 18, 1994. In addition, the Department will hold a public hearing on the proposed regulation at the following place and time:

November 2, 1994
10:00 a.m. until all present have been heard
Room 2E
Legislative Office Building
Capitol Avenue
Hartford, Connecticut 06106

Copies of the proposed regulations may be obtained from the Department of Environmental Protection, Waste Management Bureau, Engineering and Enforcement Division, 79 Elm Street, Hartford, Connecticut 06106-5127, telephone (203) 566-5294. Written comments should also be sent to this address to the attention of Ms. Robin W. Bray.

8/19/94

Date

Robert E. Moore
Deputy Commissioner

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IMPORTANT: Read Instructions of bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

NAME OF AGENCY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Concerning
SUBJECT MATTER OF REGULATION
THE REPORTING OF RELEASES

SECTION _____

Regulations of Connecticut State Agencies are amended by adding Sections 22a-450-1 to 22a-450-7, inclusive, as follows:

A REGULATION CONCERNING THE REPORTING OF RELEASES

(NEW) Section 22a-450-1. Definitions

For the purposes of sections 22a-450-1 through 22a-450-7 the following definitions shall apply:

- (a) **"Aquifer protection area"** means aquifer protection area as defined in section 22a-354h of the General Statutes.
- (b) **"Asbestos"** means asbestos as defined in Regulations of Connecticut State Agencies section 22a-209-1.
- (c) **"Biomedical waste"** means biomedical waste as defined in Regulations of Connecticut State Agencies section 22a-209-15.
- (d) **"Biomedical waste generator"** means biomedical waste generator as defined in Regulations of Connecticut State Agencies section 22a-209-15.
- (e) **"Chemical liquids"** means chemical liquids as defined in section 22a-448 of the General Statutes. For purposes of these regulations, this term shall not mean potable water or water vapor.
- (f) **"Commissioner"** means the commissioner of environmental protection or his designated agent.
- (g) **"Department"** means the department of environmental protection.
- (h) **"Emergency"** means emergency as defined in section 22a-448 of the General Statutes.
- (i) **"Friable"** means friable as defined in Regulations of Connecticut State Agencies section 22a-209-1.
- (j) **"Hazardous waste"** means hazardous waste as defined in section 22a-448 of the General Statutes.
- (k) **"Impermeable system or surface"** means a system or surface which prevents the migration of a release of a reportable material beyond and through the system or surface. Asphalt, wood, or an earthen system or surface shall not be considered an "impermeable system or surface" unless the person responsible for reporting the release under section 22a-450 of the General Statutes has on-site a written compatibility and permeability study performed by a licensed professional engineer certifying that such asphalt, wood, or earthen system or surface is compatible with and impermeable to the reportable material contacting it. A floating containment barrier shall not be considered an impermeable system or surface for purposes of these regulations.
- (l) **"Inert"** means exhibiting no chemical activity; totally unreactive; inactive; insoluble.
- (m) **"PCB"** means PCB as defined in section 22a-463 of the General Statutes.
- (n) **"Person"** means person as defined in section 22a-2 of the General Statutes.
- (o) **"Pesticide"** means pesticide as defined in section 22a-47 of the General Statutes.
- (p) **"Petroleum"** means petroleum as defined in section 22a-449a of the General Statutes.

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- (q) **"Prohibited pesticide"** means prohibited pesticide as defined in section 22a-66-2(a) of the Regulations of Connecticut State Agencies, or as suspended or cancelled by the United States Environmental Protection Agency pursuant to Title 7 U.S.C. Section 136d.
- (r) **"Radioactive materials"** means radioactive materials as defined in section 22a-148 of the General Statutes.
- (s) **"Release"** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of, or the uncontrolled loss, seepage or filtration of, a reportable material by accident, negligence or otherwise.
- (t) **"Reportable material"** means any chemical liquids, solid, liquid or gaseous products, hazardous waste, waste oil, petroleum, asbestos, radioactive material, pesticide, prohibited pesticide, restricted use pesticide, PCB or biomedical waste.
- (u) **"Restricted use pesticide"** means restricted use pesticide as defined in section 22a-47 of the General Statutes and section 22a-50-5 of the Regulations of Connecticut State Agencies.
- (v) **"Solid, liquid or gaseous products"** means solid, liquid or gaseous products as defined in section 22a-448 of the General Statutes. For purposes of these regulations this term shall not mean potable water or water vapor, or solids which are inert.
- (w) **"Waste oil"** means waste oil as defined in section 22a-448 of the General Statutes.
- (x) **"Watercourses"** means watercourses as defined in section 22a-38 of the General Statutes.
- (y) **"Waters"** means waters as defined in section 22a-423 of the General Statutes.
- (z) **"Watershed land"** means land from which water drains into a public drinking water supply.
- (aa) **"Well field"** means well field as defined in section 22a-354h of the General Statutes.
- (bb) **"Wetland"** means wetland as defined in section 22a-29 of the General Statutes and wetlands as defined in section 22a-38 of the General Statutes.

(NEW) Section 22a-450-2. Reporting Criteria

Except as provided in section 22a-450-3, the following releases of reportable materials shall be reported in accordance with sections 22a-450-4 and 22a-450-5.

- (a) Reporting based upon the quantity released.

Any person required to report under section 22a-450 of the General Statutes shall report the release of a reportable material in a quantity equal to or greater than one (1) pound or one (1) pint, whichever is less.
- (b) Reporting based upon the location or nature of material released.
 - (1) Notwithstanding subsection (a) of this section, any person required to report under section 22a-450 of the General Statutes shall report the release of any amount of a reportable material which meets one or more of the following criteria:
 - (A) a release which occurs within a watershed land or aquifer protection area;
 - (B) a release which occurs within one thousand (1000) feet of a well field or private water supply well;

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- (C) a release to waters, to watercourses or to a wetland;
- (D) a release to a storm sewer, sanitary sewer or combined sewer system;
- (E) a release from an underground storage tank or underground storage tank system;
- (F) a release of friable asbestos;
- (G) a release of any restricted use or prohibited pesticide;
- (H) a release of PCB or materials containing PCB at a level equal to or exceeding the limit of detection established by the United States Environmental Protection Agency pursuant to Title 40 CFR Part 761 (1978);
- (I) a release of radioactive material in excess of those quantities as defined in Title 10 CFR Part 20 Appendix B, Table 2, (May, 31, 1991), excluding radioactive materials classified by the United States Nuclear Regulatory Commission as exempt quantity, or exempt item under Title 10 CFR Part 33 (November 30, 1988) and including naturally occurring or accelerator produced radioactive material, and material in excess of those quantities defined in Appendix A of section 19-24-1 through 19-24-14 of the Regulations of Connecticut State Agencies (October 1, 1982).
- (J) a release of any carcinogen recognized and published by the National Institute for Occupational Safety and Health, DHHS (NIOSH) Publication Number 90-117, June, 1990; or
- (K) a release which poses an emergency, a fire hazard, a potential for explosion, or a hazard to life, safety, property or the environment.

(NEW) Section 22a-450-3. Exceptions

The following releases shall not be subject to the requirements of sections 22a-450-4 and 22a-450-5:

- (a) a release of petroleum, waste oil, or heat transfer/dielectric fluid provided the release is not from an underground storage tank or underground storage tank system and provided the release meets all of the following:
 - (1) the quantity of released reportable material is five (5) gallons or less;
 - (2) the release is completely removed within 24 hours;
 - (3) the release is not to waters, to watercourses or to a wetland, or within a watershed land or aquifer protection area, or within one thousand (1000) feet of a well field or private water supply well, or to a storm sewer, sanitary sewer or combined sewer system;
 - (4) the release does not pose an emergency, a fire hazard, a potential for explosion, or a hazard to life, safety, property or the environment; and
 - (5) the release contains no PCBs.
- (b) a release of engine coolants provided the release does not exceed one (1) gallon and is removed immediately when discovered.

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- (c) a release to an impermeable system or surface provided the release is removed within 24 hours of discovery and provided the release is not a release as described in subparagraphs (b)(1)(E) through (b)(1)(K) of section 22a-450-2. These releases are subject to the recordkeeping requirements described in section 22a-450-6.
- (d) a release of biomedical waste provided the release is a release to an impermeable system or surface and is removed immediately when discovered.
- (e) a release of food products or domestic sewage provided the release meets the following:
 - (1) the release is removed within 24 hours;
 - (2) the release has not occurred to waters, to watercourses, to a wetland or to a storm sewer, sanitary sewer or combined sewer system; and
 - (3) the release does not pose an emergency, a fire hazard, a potential for explosion, or a hazard to life, safety, property or the environment.
- (f) a release which is authorized and in compliance with a permit or license issued by the Commissioner or the United States Environmental Protection Agency.
- (g) an application of a pesticide or fertilizer in accordance with the manufacturer's registered label instructions, and state and federal law;
- (h) a release resulting from an agricultural activity as long as the activity is conducted in accordance with good agricultural practices.

(NEW) Section 22a-450-4. Reporting Procedure; Mitigation, Removal and Disposal

Any person required to report under section 22a-450 of the General Statutes shall immediately, upon initial discovery of the release, report by telephone to the Department's 24-hour Oil and Chemical Spill Reporting telephone number: (203) 566-3338 and shall, in accordance with section 22a-451(b) of the General Statutes, act immediately to contain and remove or mitigate the effects of such release to the satisfaction of the Commissioner. If for any reason the report cannot be made to such telephone number, such person shall make such report to the Department of Environmental Protection, Emergency Dispatch Center: (203) 566-3333.

The telephone report shall include the information listed in subsection (a) of section 22a-450-5. Such person shall also make a written report in accordance with subsection (b) of section 22a-450-5. Waste materials generated by the clean-up of any such release shall be transported in accordance with all applicable laws to a waste disposal facility authorized to accept such materials.

(NEW) Section 22a-450-5. Information to Report

- (a) The telephone report required in accordance with section 22a-450-4 shall include, but need not be limited to, the information listed below to the extent known at the time of the report. Information not available at the time of the telephone report shall be included in the written report submitted in accordance with subsection (b) of this section.
 - (1) the name, title, address and telephone number of the person responsible for reporting the release under section 22a-450 of the General Statutes;
 - (2) the name, title and address of the person making the report if different from the person identified under subdivision (a)(1) of this section. The person making the report shall describe his/her relationship to the person or persons identified under subdivision (a)(1) of this section;

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- (3) the telephone number at which the person making the report or another person familiar with the release and with the current status of mitigation activities can be reached at any time within one hour of the report; and
- (4) a description of the release, which shall include but need not be limited to all of the following information:
 - (A) the location of the release, including a description of the proximity of the release to population centers;
 - (B) the time, date and duration of the release;
 - (C) the chemical name or identity of each reportable material involved in the release;
 - (D) a listing of each and every released reportable material identified in subparagraph (a)(4)(C) of this section which is an Extremely Hazardous Substance pursuant to Title 40 CFR Part 355, revised October, 1993 or a CERCLA hazardous substance pursuant to Title 40 CFR Part 302, revised October, 1993;
 - (E) for each Extremely Hazardous Substance or CERCLA hazardous substance identified in subparagraph (a)(4)(D) of this section, a description of any known or anticipated acute or chronic health risks associated with the reportable material released and, where appropriate, a description of medical treatment administered or to be administered to exposed individuals;
 - (F) the quantity and concentration of each reportable material known to have been released and the quantity and concentration which has or may potentially enter the environment due to the release;
 - (G) the location of any catch basin, storm sewer, sanitary sewer or combined sewer system, or drainage ditch impacted or which may be impacted by the release;
 - (H) a description of the cause of the release;
 - (I) the results of any laboratory analyses or other information used to determine the extent of the emergency and the appropriate clean-up and disposal methods;
 - (J) the clean-up or mitigation procedures employed or to be employed to stabilize, contain or remove the release and the name of the person employed or retained, or to be employed or retained to conduct such clean-up or mitigation procedures;
 - (K) safety precautions implemented or to be implemented as a result of the release, including evacuation if appropriate;
 - (L) a description of symptoms observed or complained of by individuals exposed to the release;
 - (M) any additional information which would assist the commissioner in understanding the nature and potential environmental and public health impacts of the release.
- (b) Any person responsible for reporting a release under this section shall, within seven (7) business days of initial discovery of the release, prepare and submit to the Commissioner by certified mail a written report. Any information not available at the time the written report is submitted shall be submitted to the Commissioner in a supplemental written

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report not later than twenty-one (21) days after initial discovery of the release. The person responsible for reporting the release under section 22a-450 of the General Statutes shall maintain a copy of such report for at least three (3) years from the date it is sent to the Commissioner. The report shall be signed by the person preparing the report who shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."

The written report shall include but is not limited to all of the following information:

- (1) the name, title, address and telephone number of the person responsible for reporting the release under section 22a-450 of the General Statutes;
- (2) the name, title, address, telephone number and signature of the person preparing the report if different from the person identified in subdivision (b)(1) of this section;
- (3) the time, date and location of the start of the release, including a description of the proximity of the release to population centers;
- (4) a detailed description of the cause of the release;
- (5) the chemical name or identity of each reportable material involved in the release;
- (6) a listing of each and every released reportable material identified in subdivision (b)(5) of this section which is an Extremely Hazardous Substance pursuant to Title 40 CFR Part 355, revised October, 1993 or a CERCLA hazardous substance pursuant to Title 40 CFR Part 302, revised October, 1993;
- (7) for each Extremely Hazardous Substance or CERCLA hazardous substance identified in subdivision (b)(6) of this section, a description of any known or anticipated acute or chronic health risks associated with the reportable material released and, where appropriate, a description of medical treatment administered or to be administered to exposed individuals;
- (8) for each Extremely Hazardous Substance or CERCLA hazardous substance identified in subdivision (b)(6) of this section, the federal reportable quantity (RQ) as listed in United States Environmental Protection Agency publication number 560/4-92-011, January 1992, Title III List of Lists, Consolidated List of Chemicals Subject To Reporting Under The Emergency Planning And Community Right-To-Know Act, revised October, 1993 and a copy of the Material Safety Data Sheet (MSDS) for each substance involved;
- (9) the type and quantity of reportable material released, and the quantity of reportable material contained and removed in response to the release;
- (10) safety precautions implemented or to be implemented as a result of release, including evacuation if appropriate;
- (11) the location of any catch basin, storm sewer, sanitary sewer or combined sewer system, or drainage ditch impacted or potentially impacted by the release;
- (12) the location of any private water supply wells or well fields within one thousand (1000) feet of the release and the distance to any water, watercourses or wetlands impacted or which may be impacted by the release;

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- (13) the results of any laboratory analyses or other information used to determine the extent of the emergency and the appropriate clean-up and disposal methods;
- (14) the clean-up procedures undertaken, including any measures implemented to contain the release and the name of any person employed or retained to conduct such procedures;
- (15) the proposed method and final location for disposal of any wastes generated by the clean-up of the release;
- (16) a detailed description of actions taken and procedures implemented to prevent such a release from occurring in the future;
- (17) for those releases requiring greater than thirty (30) days for completion of the clean-up, the name of the contractor, the proposed clean-up or remediation method, and the date the clean-up or remediation work will be completed;
- (18) any other information requested by the commissioner in writing prior to the submission of this written report; and
- (19) the date of the report.

(NEW) Section 22a-450-6. Recordkeeping for Non-Reportable Releases to Impermeable Systems or Surfaces

Any person required to report under section 22a-450 of the General Statutes shall, in addition to those reporting requirements provided in sections 22a-450-4 and 22a-450-5, maintain records of those releases to impermeable systems or surfaces which are not otherwise subject to the reporting requirements of sections 22a-450-4 and 22a-450-5 if the quantity of such release is equal to or greater than five (5) pounds or five (5) gallons, whichever is less. These records shall be maintained for a period of three (3) years from the date the release is detected and recorded, and shall be made available for Department inspection on request. These records shall include but are not limited to all of the following information:

- (a) the name and title of the person who initially discovered the release;
- (b) the name and title of the person preparing the report if different from the person identified in subsection (a) of this section;
- (c) the date and time of the release;
- (d) the chemical name or identity of the released material;
- (e) the quantity of material released;
- (f) a description of the cause of the release;
- (g) the location of the release and a description of the impermeable system or surface;
- (h) the quantity and percentage of released material recovered;
- (i) the clean-up methods employed to contain and remove the released material;
- (j) the name of any licensed contractors employed;
- (k) the method and final location for disposal of any wastes generated from the clean-up of the release;
- (l) a description of actions taken and procedures implemented to prevent such release from occurring in the future; and

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(m) the date of the report.

(NEW) Section 22a-450-7. Applicability to Pre-Existing Conditions.

The requirements set forth in sections 22a-450-4 and 22a-450-5 shall apply to initial discovery of any release for which reporting is required under sections 22a-450-2 and 22a-450-3, including those releases which may have occurred prior to the effective date of this regulation but which are initially discovered after such effective date.

STATEMENT OF PURPOSE

The purpose of the proposed regulation is to define those releases considered to be reportable releases under section 22a-450 of the General Statutes and to establish procedures and requirements for notifying the Department of Environmental Protection of important information such as the nature and cause of the release, the proximity of the release to population centers and sensitive environmental areas, and actions taken to mitigate the release. The proposed regulation seeks to improve the quality of information reported, promotes more timely intervention and mitigation of releases, with the overall goal of reducing the impact of the release on the environment and public health.